REMARKS/ARGUMENTS

Drawings

The objection to the drawings is addressed by the replacement sheet submitted herewith.

Double Patenting

The double patenting rejection is addressed by the Terminal Disclaimer submitted herewith.

Claim Rejections -- 35 USC § 102

The rejection of claims 1-8 as either anticipated or obvious over Nordquist et al. US 6,149,671, is respectfully traversed. Claim 1 of the present application is specific in its recitation of the irradiation of the organism with radiation at a wavelength that is absorbed preferentially by the neoplastic tissue relative to adjacent tissue. This differential absorption by neoplastic tissue is the basis for the selectivity of the destruction of the neoplastic tissue. The claim does not recite the absorption of radiation by anything adjacent to, injected into, or dispersed throughout, the tissue followed by transfer of the resulting heat to the tissue itself by convection heating. The Nordquist et al. disclosure does, and this distinguishes the invention from Nordquist et al. The radiation in Nordquist is not absorbed by the neoplastic tissue at all but instead by a chromophore that is injected into the neoplastic tissue, and by an immunoadjuvant that is injected into the tissue together with the chromophore. This is explicitly set forth in the last paragraph of column 5 and the first paragraph of column 6 of Nordquist et al. The wavelength of the radiation is "complementary to that of the chromophore" (column 6, line 5) and does not differentiate between the neoplasm and the surrounding tissue. This differentiation is instead achieved by a combination of two localization features. The first is the localization of the chromophore in the neoplastic tissue, and the second is the localized use of a laser trained on the neoplastic tissue. Localization of the chromophore is achieved either by injecting the chromophore into the center of the tumor or by conjugation of the chromophore to a neoplastic tissue-specific antibody or antigen and systemically injecting the conjugate into the

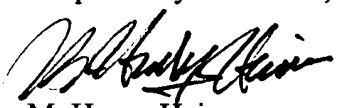
organism -- see the description in the paragraph bridging columns 7 and 8. The immunoadjuvant is localized in the same way, and its purpose is to stimulate an immune response to the neoplastic antigens. Localized irradiation is achieved by the positioning of the laser -- see column 11, lines 30-38, describing how the laser is carefully moved along the entire surface of the tumor to irradiate it from all sides. None of these methods involve the use of a wavelength that is specifically chosen to be absorbed by the tissue itself, and selectively such that the neoplastic tissue absorbs the radiation while the non-neoplastic tissue does not.

In view of this distinction, the invention as presently claimed is neither anticipated nor rendered obvious by the disclosure of Nordquist et al., and is therefore patentably distinct. Accordingly, reconsideration of this rejection is requested.

CONCLUSION

In view of the foregoing, Applicants believe all claims under examination in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. Should any matters remain that can be resolved by a conference with Applicants' attorney, the examiner is encouraged to telephone the undersigned at 415-576-0200.

Respectfully submitted,



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Attachments
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Amendments to the Drawings:

The attached drawing sheets include a change to Fig. 7 and replacements of all drawings with formal drawings that, other than the change to Fig. 7, are identical in content to the drawings originally submitted. The change to Fig. 7 is the addition of the numeral 54, as supported by the specification at page 25, line 10. No new matter is presented.

Attachment: Replacement Sheet